

## **REMARKS**

The present Amendment is in response to the Examiner's Final Office Action mailed January 3, 2007. Claim 27 is amended to correct a grammatical error. Claims 1-10, 21, 28, and 33-35 were previously canceled. Therefore, claims 11-20, 22-27, and 29-32 are now pending.

Reconsideration of the application is respectfully requested in view of the following remarks. For the convenience and reference of the Examiner, the remarks of the Applicants are presented in the order in which the corresponding issues were raised in the Office Action.

### **I. General Considerations**

Applicants note that the remarks and amendments presented herein have been made merely to clarify the claimed embodiments from elements purported by the Examiner to be taught by the cited references. Such remarks, or a lack of remarks, and amendments are not intended to constitute, and should not be construed as, an acquiescence, on the part of the Applicants: as to the purported teachings or prior art status of the cited references; as to the characterization of the cited references advanced by the Examiner; or as to any other assertions, allegations or characterizations made by the Examiner at any time in this case. Applicants reserve the right to challenge the purported teaching and prior art status of the cited references at any appropriate time.

In addition, the remarks herein do not constitute, nor are they intended to be, an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed herein are presented solely by way of example. Consistent with the foregoing, the discussion herein is not intended, and should not be construed, to prejudice or foreclose contemporaneous or future consideration, by the Applicants, of additional or alternative distinctions between the claims of the present application and the references cited by the Examiner, and/or the merits of additional or alternative arguments.

### **II. Rejection Under 35 U.S.C. § 103**

Claims 11-20, 22-27, and 29-32 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,582,135 to Brun et al. ("*Brun*") in view of U.S. Patent Publication 2003/0077047 to Hwang et al. ("*Hwang*"). Applicants respectfully traverse the

rejection for at least the reason that neither reference discloses or suggests each and every element of the claimed invention.

For example, claims 11 and 20 each recite, among other things “a plurality of glass spacers disposed about [a] dual fiber collimator.” Claim 27 recites a similar limitation: “the plurality of spacers are glass... wherein [a] first optical element is disposed within the plurality of spacers....” Neither *Brun* nor *Hwang* disclose or suggest these limitations. The Office Action identified ferrule 16 as corresponding to the claimed dual fiber collimator and asserted that *Brun* teaches “a plurality of glass (fused silica) spacers 14/36 disposed about the dual fiber collimator.” See Office Action, p. 3. However, as shown in figure 3 of *Brun*, sleeve 36 is not “disposed about” ferrule 16. Instead, only sleeve 14 appears to be surrounding ferrule 16. A single sleeve cannot possibly constitute a “plurality of glass spacers,” (emphasis added) as claimed. Therefore, the Examiner has not established that *Brun* teaches the aforementioned claim limitations.

Additionally, claim 20 recites, among other things, that “the plurality of spacers rest against an inside surface of the metal housing.” Claim 27 recites a similar limitation: “wherein an outer surface of the plurality of spacers are shaped to rest against the inside surface of the metal housing.” The Office Action identified sleeves 14 and 36 as corresponding to the claimed plurality of spacers and sleeve 32 as corresponding to the claimed metal housing. See Office Action, p. 3. However, as shown in figure 3 of *Brun*, sleeves 14 and 36 do not “rest against an inside surface of” sleeve 32, as recited in claim 20. Similarly, with respect to claim 27, the outer surfaces of sleeves 14 and 36 are not “shaped to rest against the inside surface of” sleeve 32. In fact, housing elements 12 and 37 and solder/weld material 31 and 33 are shown separating sleeves 14 and 36 from sleeve 32. Therefore, the Examiner has not established that *Brun* teaches the aforementioned claim limitations.

Furthermore, Applicants maintain from the Reply filed on December 12, 2006, that claims 11 and 20 are allowable for at least the reason that, as recognized in the Office Action, *Brun* and *Hwang* fail to disclose “a dual fiber pigtail.” The Office Action asserted that “[c]learly from column 21, lines 27-62 of Brun et al. ‘135, fiber pigtails are disclosed in another embodiment.” See Office Action, p. 5. The Office Action then concluded that “[a]s such an analogous use is *expressly* taught in the prior art cited” (emphasis in original) and that “dual fiber

‘element’ and dual fiber ‘pigtail’ have equivalent function in the art based on the disclosed embodiments (see, for example, column 21, lines 27-62 of Brun et al. ‘135).” *See id.* Applicants respectfully disagree and submit that the Office Action’s conclusions are in fact contradicted, not supported, by the separate fiber pigtail embodiment taught in *Brun*. In particular, the fact that *Brun* uses the term “fiber pigtail” in describing the second embodiment, but not the first, strongly implies that the fiber element in the first embodiment is not a fiber pigtail.

Moreover, even if, assuming *arguendo*, the Examiner is correct in asserting that “a person of ordinary skill in the art would have... come to the conclusion that dual fiber ‘element’ and dual fiber ‘pigtail’ have equivalent function,” this is not sufficient to meet the burden for *prima facie* obviousness. According to M.P.E.P. § 2142, “the prior art reference ... must teach or suggest all the claim limitations.” Moreover, according to M.P.E.P. § 2114, a prior art device can perform all the functions of a claim and still not anticipate the claim. *See also In re Robertson*, 169 F.3d 743, 49 USPQ2d 1949 (Fed. Cir. 1999) (holding that a reference did not disclose three separate fastening elements, either expressly or inherently, even though it disclosed two fastening elements that could perform the same function).

In view of the foregoing, Applicants submit that claims 11, 20 and 27 are in condition for allowance. Claims 12-19, 22-26, and 29-32 are allowable at least for their dependency on an allowable independent claim.

### **CONCLUSION**

In view of the amendments and remarks submitted herein, Applicants respectfully submit that each of the claims 11-20, 22-27, and 29-32 now pending in this application is in condition for allowance. Therefore, reconsideration of the rejections is requested and allowance of those claims is respectfully solicited. In the event that the Examiner finds any remaining impediment to a prompt allowance of this application that could be clarified in a telephonic interview, the Examiner is respectfully requested to initiate the same with the undersigned attorney.

Dated this 3<sup>rd</sup> day of May, 2007.

Respectfully submitted,

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